

1 Sheryl J. Willert, WSBA #08617  
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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF WASHINGTON

9 JESSE ERVIN,

10 NO.

11 Plaintiff,

12 NOTICE OF REMOVAL

13 v.

14 MOUNTAIN VIEW EQUIPMENT  
COMPANY, an Idaho corporation, and  
STUART FJELDSTED and his marital  
property,

15 Defendants.

16 **I. NOTICE OF REMOVAL**

17 Pursuant to 28 U.S.C. §1332(a), 28 U.S.C. §1441, and 28 U.S.C. §1446,

18 Defendants Mountain View Equipment Company and Stuart Fjeldsted and his  
19 marital property hereby remove the action titled *Jesse Ervin v. Mountain View*

NOTICE OF REMOVAL - 1

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1     *Equipment Co. and Stuart Fjeldsted and his marital property*, not yet filed in the  
2 Superior Court of Yakima County, Washington, to the United States District Court  
3 for the Eastern District of Washington. In support of their removal of this action,  
4 Defendants state as follows:

5         1. On November 1, 2018, Plaintiff Jesse Ervin served a summons and  
6 complaint on Defendant Mountain View Equipment Company, styled *Jesse Ervin*  
7 *v. Mountain View Equipment Co., and Stuart Fjeldsted.* Plaintiff is a former  
8 employee of Mountain View Equipment Company.

9         2. Attached as **Exhibit A** to Declaration of Sheryl J. Willert are true and  
10 correct copies of the following pleadings that have been served in connection with  
11 this litigation:

- 12             • Summons and Complaint
- 13             • Notice of Appearance for Sheryl J. Willert, Jeffery M. Wells, and  
14                 Jessica M. Cox

15         3. Mountain View Equipment Company files this Notice of Removal on  
16 November 30, 2018. This Notice is timely pursuant to 28 U.S.C. §1446(b) because  
17 it was filed within thirty (30) days after the summons and complaint were served  
18 on Mountain View Equipment Company.

19         4. This Notice is properly filed in the Eastern District of Washington  
because this Court embraces Yakima County. 28 U.S.C. §128(a) & §1441(a).

1       5. This action is properly removed to this Court pursuant to 28 U.S.C.  
2 §1332 and §1441 because the amount in controversy exceeds \$75,000, and it is a  
3 civil action between citizens of different States.

4       6. The Complaint does not expressly state an amount in controversy.  
5 However, pursuant to 28 U.S.C §1446(c), a reasonable person reading the  
6 complaint would conclude that minimum jurisdictional amount is met. Plaintiff  
7 has alleged claims for (1) Violation of Washington State Law Against  
8 Discrimination; (2) Willful Violation of the Federal and Washington State Family  
9 Leave Act; (3) Hostile Work Environment; (4) Wrongful Termination in Violation  
10 of Public Policy; (5) Failure to Accommodate; and (6) “Other Claims.”

11       7. Plaintiff alleges damages that include economic and noneconomic  
12 damages, interest, and reasonable attorney’s fees. *See* Complaint at ¶ 34. Thus, the  
13 damages sought by Plaintiff will likely exceed \$75,000.00.

14       8. The United States District Courts have original jurisdiction over this  
15 case based on diversity of citizenship of the parties. 28 U.S.C. § 1332(a).

16       9. Plaintiff Jesse Ervin is an individual domiciled in Yakima County,  
17 Washington. *See* Complaint at ¶ 1.

10. Defendant Mountain View Equipment Company is and was at the time Plaintiff commenced this action, a corporation organized under the laws of Idaho with its principal place of business in Meridian, Idaho.

11. Defendant Stuart Fjeldsted is domiciled in Boise, Idaho.

## **II. NOTICE TO PLAINTIFF**

Contemporaneous with the filing of this Notice of Removal in the United States District Court for the Eastern District of Washington, written notice will be served on Plaintiff's counsel of record: Favian Valencia of Sunlight Law, PLLC, 402 E. Yakima Avenue, Suite 730, Yakima, WA 98901.

Having fulfilled the statutory requirements for removal, Defendants respectfully remove the matter of *Jesse Ervin v. Mountain View Equipment Co. and Stuart Fjeldsted and his marital property*, not yet filed in the Superior Court of Yakima County, Washington, to the United States District Court for the Eastern District of Washington, pursuant to 28 U.S.C. §1332, §1441, and §1446. By seeking removal, Defendants do not waive any defenses, including but not limited to lack of personal jurisdiction, insufficiency of process, or service of process.

1 DATED this 30<sup>th</sup> day of November, 2018.

2 s/ Sheryl J. Willert

3 s/ Jeffery M. Wells

4 Sheryl J. Willert, WSBA #08617

5 Jeffery M. Wells, WSBA #45840

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11 [jwells@williamskastner.com](mailto:jwells@williamskastner.com)

12 Attorneys for Defendants

1                   **CERTIFICATE OF SERVICE**

2                   I hereby certify that on November 30, 2018 I electronically filed the  
3 foregoing with the Clerk of the Court using the CM/ECF system, and I hereby  
4 certify that I caused a true and correct copy of the foregoing document to be  
5 delivered to the following counsel of record in the manner indicated:

6                   **Attorneys for Plaintiff:**

7                   Favian Valencia, WSBA #43802  
8                   Sunlight Law, PLLC  
9                   402 E. Yakima Avenue, Suite 730  
Yakima, WA 98901  
Phone: 509-388-0231  
Email: favian@sunlightlaw.com

Via Messenger  
 Via electronic mail  
 Via U.S. Mail  
 Via Facsimile  
 Via Overnight Courier

11                   s/ Sheryl J. Willert

12                   s/ Jeffery M. Wells

13                   Sheryl J. Willert, WSBA #08617  
Jeffery M. Wells, WSBA #45840  
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17                   Attorneys for Defendants